H-3147.1

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**HOUSE BILL 2480**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**State of Washington 65th Legislature 2018 Regular Session**

**By** Representatives McBride, Gregerson, Hayes, Eslick, Stanford, Doglio, and Tharinger

AN ACT Relating to providing local governments with options to preserve affordable housing in single-family neighborhoods; adding a new chapter to Title 84 RCW; creating a new section; and providing an expiration date.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that:

(1) Families, senior citizens, and workers with limited financial resources are likely to experience fewer housing choices;

(2) Affordable housing is a necessary component of strong, thriving neighborhoods;

(3) Limited income household renters should have the opportunity to live in homes in neighborhoods close to major infrastructure investments like transit, quality schools, and vital services like health care, grocery shopping, and employment;

(4) Community members with critical occupations, senior citizens, and families are struggling to afford rent around the state;

(5) Rising rents are causing the displacement of low-income households and long-time community members; and

(6) Communities need a wide range of local tools to create healthy, affordable homes and address affordable housing needs.

NEW SECTION. **Sec.**  It is the purpose of this chapter to give communities a local option to preserve and increase healthy, high-quality affordable rental housing opportunities for low-income households for which the governing authority has found that there are insufficient affordable housing opportunities. It is also the purpose of this chapter to ensure that housing opportunities are affordable to renters at below-market rent levels, as determined by the governing authority, with consideration of community needs, market rental costs, and income levels of renters.

NEW SECTION. **Sec.**  The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Governing authority" means the local legislative authority of a city or county having jurisdiction over the property for which an exemption may be applied under this chapter.

(2) "Health and quality standards" means standards substantially equivalent to uniform physical condition standards, as established by the United States department of housing and urban development, or the national healthy housing standard, as established by the national center for healthy housing and the American public health association.

(3) "Household" means a single person, family, or unrelated persons living together.

(4) "Low-income household" means a single person, family, or unrelated persons living together whose adjusted income is at or below eighty percent of the median family income adjusted for family size, for the county in which the project is located, as reported by the United States department of housing and urban development.

(5) "Owner" means the property owner of record.

(6) "Permanent residential occupancy" means housing that provides rental occupancy on a nontransient basis that is leased for a period of at least one year. "Permanent residential occupancy" excludes hotels and motels that predominately offer rental accommodation on a daily or weekly basis.

(7) "Property" means a single-family dwelling, of any age, and the land upon which the dwelling is located with an attached or detached accessory dwelling unit. "Property" excludes hotels or motels.

(8) "Single-family dwelling" means an individual detached dwelling.

NEW SECTION. **Sec.**  A city governing authority may adopt a property tax exemption program to preserve affordable housing that meets health and quality standards for low-income households at risk of displacement or that cannot afford market-rate housing. A county governing authority may adopt a property tax exemption program for unincorporated jurisdictions to preserve affordable housing that meets health and quality standards for these households at risk of displacement or that cannot afford market-rate housing.

NEW SECTION. **Sec.**  Upon adoption of a property tax exemption program, the governing authority must establish standards for low-income household rental housing under this chapter, including rent limits and income guidelines consistent with local housing needs, to assist these households that cannot afford market-rate housing. Affordable housing units must be:

(1) Below-market rent levels as determined by the governing authority appraisal or market study; and

(2) For single-family dwellings with an attached or detached accessory dwelling unit, affordable to low-income households with an income of eighty percent or less of the area median income, adjusted for family size.

NEW SECTION. **Sec.**  (1) The value of residential housing improvements and land qualifying under this chapter are exempt from ad valorem property taxation for six successive years beginning January 1st of the year immediately following the calendar year of issuance of the certificate of tax exemption is filed with the county assessor in accordance with section 12 of this act. Subject to application to and approval by the governing authority, the exemption may be extended one time for an additional six years. The extension will result in a total of twelve successive years of exemption under the existing terms and conditions.

(2) The incentive provided under this chapter may be applied in addition to any tax credits, grants, or other incentives provided by law when required to increase the rental affordability already secured by such incentives.

(3) This chapter neither applies to increases in assessed valuation made by the assessor on nonqualifying portions of building or land nor to increases made by lawful order of a county board of equalization, the department of revenue, or a county, to a class of property throughout the county or specific area of the county to achieve the uniformity of assessment or appraisal required by law.

(4) The exemption does not apply to any county property tax unless the legislative authority of the county adopts a resolution and notifies the governing authority of the jurisdiction within the county that has established a tax exempt program of its intent to allow the property to be exempt.

(5) The governing authority must provide local taxing districts in the designated exemption area notice and an opportunity to be heard prior to establishment of a tax exemption program under this chapter.

NEW SECTION. **Sec.**  To be eligible for the exemption from property taxation under this chapter, in addition to other requirements set forth in this chapter, the property must be in compliance with the following applicable requirements for the entire exemption period:

(1) The property must be a single-family property with an affordable attached or detached accessory dwelling unit;

(2) Only that portion of the single-family property land and improvements designated exclusively as an affordable attached or detached accessory dwelling unit qualifies for the exemption;

(3) The property must meet guidelines as adopted by the governing authority that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, limits on rents, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities should be relative to the size of the project and tax benefit to be obtained; and

(4) The property owner must enter into a contract with the city or county approved by the governing authority, or an administrative official or commission authorized by the governing authority, under which the property owner has agreed to terms and conditions satisfactory to the governing authority.

NEW SECTION. **Sec.**  (1) To be eligible for the exemption from taxation under this chapter, the property must also comply with all applicable land use regulations, zoning requirements, and building and housing code requirements, including space and occupancy, structural, mechanical, fire, safety, and security standards, and health and quality standards. At a minimum, the standard for housing quality must be substantially equivalent to uniform physical condition standards. The governing authority may establish additional standards to meet local needs.

(2) The property must be inspected for compliance with subsection (1) of this section prior to awarding the tax exemption and thereafter, as established by the governing authority. The governing authority may deny an application for tax exemption for failure to comply with health and quality standards.

NEW SECTION. **Sec.**  (1) The governing authority may establish additional requirements for tax exemption eligibility or program rules under this chapter including, but not limited to:

(a) A limit on the total number of affordable housing units subject to exemption under this chapter;

(b) The designation of targeted residential areas for property to align with community needs, including to prevent displacement and provide affordable housing options near community infrastructure such as transportation or public schools;

(c) Standards for property size, unit size, unit type, mix of unit types, or mix of unit sizes; and

(d) Any additional requirements to reduce displacement of low-income household tenants.

(2) The governing authority must adopt and implement standards and guidelines to be utilized in considering applications and making the determinations required under this chapter. The standards and guidelines must establish basic requirements to include:

(a) An application process and procedures;

(b) Guidelines that may include height, density, public benefit features, number and size of proposed development, parking, income limits for occupancy, health and quality standards, and other adopted requirements indicated as necessary by the governing authority. The required amenities should be relative to the size of the project and tax benefit to be obtained;

(c) An inspection policy and procedures to ensure the property complies with housing and health and quality standards;

(d) Income and rent limits as required under section 5 of this act; and

(e) Documentation necessary to establish income eligibility of households in affordable housing units.

(3) Standards may apply to part or all of a jurisdiction and different standards may be applied to different areas within a jurisdiction or to different types of development. Programs authorized under this section may be modified to meet local needs and may include provisions not expressly provided in this section.

NEW SECTION. **Sec.**  An owner of property making application under this chapter must meet the following requirements:

(1) The applicant must apply to the city or county on forms adopted by the governing authority. The application must contain the following:

(a) Information setting forth the grounds supporting the requested exemption, including information indicated on the application form or in the guidelines;

(b) A description of the project, including the floor plan of units and other information requested;

(c) A statement that the applicant is aware of the potential tax liability involved when the property ceases to be eligible for the incentive provided under this chapter; and

(d) A certification of family size and annual income in a form acceptable to the governing authority for designated affordable housing units;

(2) The applicant must verify the application by oath or affirmation; and

(3) The applicant must submit a fee, if any, with the application as required under this chapter. The governing authority may permit the applicant to revise an application before final action by the governing authority.

NEW SECTION. **Sec.**  (1) Upon receipt of an application meeting the requirements of section 10 of this act, the governing authority must inspect the property to certify compliance with health and quality standards.

(2) The duly authorized administrative official or commission of the governing authority may approve the application if it finds that:

(a) The property meets affordable housing requirements as described in section 5 of this act;

(b) The property meets health and quality standards; and

(c) The owner has complied with all standards and guidelines adopted by the governing authority under this chapter.

NEW SECTION. **Sec.**  (1) The governing authority, or an administrative official or commission authorized by the governing authority, must approve or deny an application filed under this chapter.

(2) If the application is approved, the governing authority must issue the owner of the property a certificate of acceptance of tax exemption. The certificate must contain a statement by a duly authorized administrative official of the governing authority that the property has complied with the required findings indicated in this chapter. The governing authority must file a copy of the certificate with the assessor no later than October 1st of the year before the exemption is to be applied.

(3)(a) If the application is denied by the authorized administrative official or commission authorized by the governing authority, the deciding administrative official or commission must state in writing the reasons for denial and send the notice to the applicant at the applicant's last known address within ten days of the denial.

(b) Upon denial by the authorized administrative official or commission, an applicant may appeal the denial to the governing authority within thirty days after receipt of the denial. The appeal before the governing authority must be based upon the record made before the administrative official or commission with the burden of proof on the applicant to show that there was no substantial evidence to support the administrative official or commission's decision. The decision of the governing authority in denying or approving the application is final.

NEW SECTION. **Sec.**  The governing authority may establish an application fee or other fees not to exceed an amount determined to be required to cover the cost to be incurred by the governing authority and the assessor in administering this chapter. The application fee, if established, must be paid at the time the application is submitted. If the application is approved, the governing authority must pay the application fee to the county assessor for deposit in the county current expense fund, after first deducting that portion of the fee attributable to its own administrative costs in processing the application. If the application is denied, the governing authority may retain that portion of the application fee attributable to its own administrative costs and refund the balance to the applicant.

NEW SECTION. **Sec.**  The authorized representative of the governing authority must notify the applicant that a certificate of tax exemption is not going to be filed if the authorized representative determines that:

(1) The affordable housing requirements as described in section 5 of this act were not met;

(2) The property did not meet health and quality standards; or

(3) The owner's property is otherwise not qualified for limited exemption under this chapter.

NEW SECTION. **Sec.**  (1) The owner of property receiving a tax exemption under this chapter must obtain from each tenant living in designated affordable housing units, no less than annually, a certification of family size and annual income in a form acceptable to the governing authority.

(2) The property owner must file a report with the governing authority at least annually indicating the following:

(a) Family size and annual income for each tenant living in designated affordable housing rental units and a statement that the property is in compliance with affordable housing requirements described in section 5 of this act;

(b) A statement of occupancy and vacancy;

(c) A schedule of rents charged in market-rate units;

(d) A certification that the property has not changed use;

(e) A description of changes or improvements; and

(f) Any other information required to determine compliance with program requirements.

(3) A governing authority that issues certificates of tax exemption for property that conform to the requirements of this chapter must report annually to the department of commerce the following information:

(a) The number of tax exemption certificates granted;

(b) The number and type of units in building properties receiving a tax exemption;

(c) The number and type of units meeting affordable housing requirements;

(d) The total monthly rent amount for each affordable and market-rate unit; and

(e) The value of the tax exemption for each project receiving a tax exemption and the total value of tax exemptions granted.

NEW SECTION. **Sec.**  (1) If improvements have been exempted under this chapter, the improvements continue to be exempted for the applicable period under section 6 of this act, so long as they are not converted to another use and continue to satisfy all applicable conditions. If the owner intends to convert the accessory dwelling unit to another use, or, if applicable, if the owner intends to discontinue compliance with the affordable housing requirements as described in section 6 of this act or any other condition to exemption, the owner must notify the jurisdiction within sixty days of the change in use or intended discontinuance. If, after a certificate of tax exemption has been filed with the county assessor, the authorized representative of the governing authority is notified by the owner, or discovers that a portion of the property is changed or will be changed to a use that is other than residential or that housing or amenities no longer meet the requirements, including, if applicable, affordable housing requirements, as previously approved or agreed upon by contract between the city or county and the owner and that the multifamily housing, or a portion of the housing, no longer qualifies for the exemption, the tax exemption must be canceled and the following must occur:

(a) Additional real property tax must be imposed upon the value of the nonqualifying improvements in the amount that would normally be imposed, plus a penalty must be imposed amounting to twenty percent. This additional tax is calculated based upon the difference between the property tax paid and the property tax that would have been paid if it had included the value of the nonqualifying improvements, for each exempt year, dated back to the date that the improvements were converted to a nonaffordable housing use;

(b) The tax must include interest upon the amounts of the additional tax at the same statutory rate charged on delinquent property taxes from the dates on which the additional tax could have been paid without penalty if the improvements had been assessed at a value without regard to this chapter; and

(c) The additional tax owed together with interest and penalty must become a lien on the land and attach at the time the property or portion of the property is removed from nonaffordable housing use or the amenities no longer meet applicable requirements, and has priority to and must be fully paid and satisfied before a recognizance, mortgage, judgment, debt, obligation, or responsibility to or with which the land may become charged or liable. The lien may be foreclosed upon expiration of the same period after delinquency and in the same manner provided by law for foreclosure of liens for delinquent real property taxes. An additional tax unpaid on its due date is delinquent. From the date of delinquency until paid, interest must be charged at the same rate applied by law to delinquent ad valorem property taxes.

(2) Upon a determination that a tax exemption is to be canceled for a reason stated in this section, the governing authority or authorized representative must notify the record owner of the property as shown by the tax rolls by mail, return receipt requested, of the determination to cancel the exemption. The owner may appeal the determination to the governing authority or authorized representative, within thirty days by filing a notice of appeal with the clerk of the governing authority, which notice must specify the factual and legal basis on which the determination of cancellation is alleged to be erroneous. The governing authority or a hearing examiner or other official authorized by the governing authority may hear the appeal. At the hearing, all affected parties may be heard and all competent evidence received. After the hearing, the deciding body or officer must either affirm, modify, or repeal the decision of cancellation of exemption based on the evidence received. An aggrieved party may appeal the decision of the deciding body or officer to the superior court under RCW 34.05.510 through 34.05.598. The county assessor must make such a valuation of the property and improvements as is necessary to permit the correction of the rolls.

NEW SECTION. **Sec.**  This chapter expires January 1, 2029.

NEW SECTION. **Sec.**  (1) This section is the tax preference performance statement for the tax preference contained in chapter . . ., Laws of 2018 (this act). This performance statement is only intended to be used for subsequent evaluation of the tax preference. It is not intended to create a private right of action by any party or be used to determine eligibility for preferential tax treatment.

(2) The legislature categorizes this tax preference as one intended to induce certain designated behavior by taxpayers, as indicated in RCW 82.32.808(2)(a).

(3) It is the legislature's specific public policy objective to preserve quality and healthy affordable housing where housing options, including quality and healthy affordable housing options, are severely limited. It is the legislature's intent to provide the value of residential improvements and land qualifying under this chapter an exemption from ad valorem property taxation for six years, as provided for in this chapter, to provide incentives to property owners to preserve affordable housing units for low-income households.

(4) To measure the effectiveness of the exemption provided in chapter . . ., Laws of 2018 (this act) in achieving the specific public policy objective described in subsection (3) of this section, the joint legislative audit and review committee must evaluate this preference.

NEW SECTION. **Sec.**  Sections 1 through 17 of this act constitute a new chapter in Title 84 RCW.

**--- END ---**